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JOHN M. BARROWS
EXECUTIVE DIRECTOR

March 3, 2009

Rep. Ed Butcher, Chairman
Members
House Agriculture Committee

SB 104 – Estray livestock notification

My name is John Barrows, Executive Director of the Montana Newspaper Association, which represents Montana's 90 daily and weekly newspapers.

Our concern with this bill centers on its substitution, for a properly published public notice, a department web site and posting of a notice of an estray in Sheriff's Offices and livestock market brand office.

We have no concern with the additional information as provided in this bill, in fact we welcome it. The more public information that is made available, in a situation such as this, the better.

However, we worry about the removal of the very notice, one that has been properly published in a locally applicable newspaper, that is and has been since the formation of this state, which is legally accepted in any court.

This is especially important because a potential property right is involved here, in the ownership of the animal, and is the reason, of course, why public notice was instituted in the original law.

Under 18-7-201, in all cases where any publication is required by law for the state of Montana and any of its divisions, the same shall be published in a newspaper of general bona fide and paid circulation. Similar provisions govern county governments as well.

There are important reasons that a published newspaper notice should form the foundation of any issue requiring proper public notice.

According to the Public Notice Resource Center, a national organization that compiles state public notice laws, there are four principal reasons for a published public notice:

A public notice is published in a forum independent of the government, such as a local newspaper.

A public notice is capable of being archived in a secure and publicly available format.

A public notice is capable of being accessed by all segments of society.

The public and the source of the notice must be able to verify that the notice was published, and its information disseminated to the public.

These are important reasons for the continuing of the use of the newspaper as a source of public notice for estrays. Reliance on only an agency website and notices in specific government offices restrict the access of the general population from such information. Importantly, they are totally under the control of the agency, and as such, there is no independent forum; there is no public archiving (as available through the local newspaper); it is available only to those specifically looking for such information and there is no independent verification, through sworn affidavits of publication.

The cost of public notice is surprisingly low, set at a maximum of \$11 per 100 words for the first publication and \$9 for subsequent publication, regardless of the size of the newspaper. And it appears from the current law, such costs can be assessed either against the owner when the estray is claimed, or recovered with sale of the estray.

The current law requires publication of at least four times, but because of the change in holding times of SB 104, which are understandable under the conditions facing agencies due to abandonment, it would be perfectly reasonable to reduce the length of publication time, perhaps to at least once.

This would satisfy the requirements of 18-7-201 and fulfill the essential requirements of publication to protect potential property rights of the owner of the animal and we would request SB 104 be amended to allow at least one publication.

Without it, there would be no provable proof of publication to fall back on if at some future date ownership of the animal should be claimed, and the cost is very small... just a fourth of what was required under the former law.

Now it is fashionable to call newspapers obsolete, but nothing is farther from the truth. Newspapers are still the primary resource for the general public in obtaining their news and advertising.

In a recent survey, conducted by Pulse Research of Seattle, Washington, a nationally recognized media survey firm, of Montana, newspapers are still ranked exceedingly high as the place Montanans turn to for news and advertising.

For instance, seven out of 10 Montanans (18 and older) in weekly newspaper markets had read that week's issue, and eight out of 10 in daily markets had read that day's copy of the paper.

Approximately two people reach each copy of a newspaper, expanding the reach of each issue over and above those actually sold or distributed.

An interesting figure, belying the old saying that no one reads public notices, is that 55 percent of Montanans read such notices sometimes or regular... only two out of 10 say they never read them.

And even more importantly, 85 percent of those surveyed said they believe state and local government should be required to publish legal and public notices in the newspaper on a regular basis.

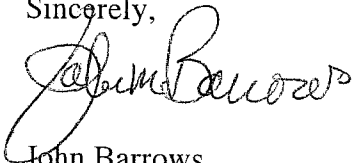
Collectively, Montana newspapers have a total of over 400,000 circulation. Over 188,000 households subscribe to a daily newspaper and over 214,000 to a weekly newspaper. That is a remarkable reach for any type of advertising, including public notices.

In addition many newspapers maintain their own websites, which are heavily visited, adding even more additional readers. The Montana Newspaper Association maintains a free web site, PublicNoticeAds.com, which is made available to Montana newspapers to additionally post all of their public notice ads in an easy, fully searchable data basis. Approximately half of Montana's newspapers are currently posting these ads, and the others are in the process of adding their ads to the service. This is plus distribution for public notice ads, at no additional cost to the agency.

Public notice is an important part of government transparency. Published notices have served Montanans well for over 140 years and continue to do so everyday.

While we appreciate the additional notice requirements, we ask that the bill not eliminate the foundation of public information, the published notice.

Sincerely,

A handwritten signature in dark ink, appearing to read "John Barrows". The signature is fluid and cursive, with the first name "John" being more prominent than the last name "Barrows".

John Barrows
Executive Director